

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE
AT NASHVILLE
DECEMBER 1995 SESSION

FILED
July 26, 1996
Cecil W. Crowson
Appellate Court Clerk

STATE OF TENNESSEE,)
)
 APPELLEE,)
)
v.)
)
)
)
VICTOR DEWAYNE PEARSON,)
)
 APPELLANT.)

No. 01-C-01-9506-CR-00174
Davidson County
Seth Norman, Judge
(Murder First Degree and
Especially Aggravated Robbery)

FOR THE APPELLANT:

Jeffrey A. DeVasher
Sr. Asst. Public Defender
1202 Stahlman Building
Nashville, TN 37201
(Appeal Only)

Ralph W. Newman
Assistant Public Defender
1202 Stahlman Building
Nashville, TN 37201
(Trial Only)

Tizeta M. Wodajo
Assistant Public Defender
1202 Stahlman Building
Nashville, TN 37201
(Trial Only)

OF COUNSEL:

Karl Dean
Metropolitan Public Defender
1202 Stahlman Building
Nashville, TN 37201

FOR THE APPELLEE:

Charles W. Burson
Attorney General & Reporter
450 James Robertson Parkway
Nashville, TN 37243-0497

Sarah M. Branch
Assistant Attorney General
450 James Robertson Parkway
Nashville, TN 37243-0485

Victor S. Johnson, III
District Attorney General
Washington Square, Suite 500
222 Second Avenue, North
Nashville, TN 37201-1649

Kymerly L.A. Hattaway
Assistant District Attorney General
Washington Square, Suite 500
222 Second Avenue, North
Nashville, TN 37201-1649

OPINION FILED: _____

AFFIRMED

Joe B. Jones, Presiding Judge

OPINION

The appellant, Victor Dewayne Pearson, was convicted of murder in the first degree and especially aggravated robbery, a Class A felony, by a jury of his peers. The appellant was sentenced to life for murder in the first degree. The trial court found that the appellant was a standard offender and imposed a Range I sentence consisting of confinement for eighteen (18) years in the Department of Correction for the especially aggravated robbery. The two sentences are to be served consecutively. In this Court, the appellant contends that the evidence contained in the record is insufficient to sustain a conviction for murder in the first degree. He also contends that the trial court erred in ordering the two sentences to be served consecutively. After a thorough review of the record, the briefs of the parties, and the law governing the issues presented for review, it is the opinion of the Court that the judgment of the trial court should be affirmed.

Desmond Campbell, the victim, came to America from his native Jamaica. He resided with Carlton Wilkinson from January of 1993 until his untimely death on August 20, 1993. Wilkinson met the appellant in August of 1993. He offered to let the appellant live in his duplex until he could find a job and a place of his own.

The appellant admitted he stole approximately \$600 from Campbell. Campbell was able to get the appellant a job so that the appellant could repay the money he stole. Wilkinson had to go to Chicago for a funeral and Campbell said he did not feel comfortable staying alone with the appellant. Wilkinson asked the appellant to find another place to live. This made the appellant very angry with Campbell. Wilkinson went to Chicago to attend the funeral of his aunt.

During the early morning hours of August 20, 1993, while Wilkinson was in Chicago, the appellant attacked Campbell with a butcher knife, which he had stolen from the kitchen before Wilkinson left town. The struggle continued down the stairway and into the living room on the first floor. Campbell died in the living room of the duplex.

An autopsy revealed that Campbell died from a stab wound in the back. The knife penetrated the left lung and caused considerable internal bleeding. The pathologist estimated that Campbell may have lived fifteen to twenty minutes after the infliction of the

stab wound. In addition, the victim sustained an incision on the back of his head. There were several wounds to the victim's forehead. Another incision was found on the right rear shoulder below the collarbone. There were defensive wounds to the victim's left palm, right forearm, and the upper portion of the left arm.

The Metropolitan police officers located the appellant. When they entered the bedroom of the home, the light was out and the appellant was "hunkered down" in a corner. The appellant had lacerations on both hands. Blood was found on the appellant's socks and both pockets of the shorts he was wearing. The officers also found the victim's suitcase containing the victim's papers, Jamaican currency, and clothing. Some of the items contained in the suitcase had blood stains, and the outside of the suitcase also had blood stains near the handle.

These facts were sufficient to support a finding by a rational trier of fact that the appellant was guilty of felony murder and especially aggravated robbery beyond a reasonable doubt. Tenn. R. App. P. 13(e).

Based upon a de novo review of the record pursuant to Tenn. Code Ann. § 40-35-401(d), the trial court properly ordered the sentences to be served consecutively. The appellant has a lengthy criminal record. The appellant was convicted of grand larceny, larceny from the person, theft, robbery, and criminal trespass between February 13, 1981 and August 13, 1993. He was granted parole status on February 4, 1987. This parole was revoked on February 13, 1990. The appellant was again granted parole status on January 22, 1993. These crimes were committed while the appellant was on parole.

The appellant met the criteria for consecutive sentencing. His record of criminal activity is extensive. Tenn. Code Ann. § 40-35-115(b)(2). The appellant has illustrated that he is a dangerous offender whose behavior indicates little or no regard for human life, and he has not hesitated to commit crimes where the risk to human life was high. Tenn. Code Ann. § 40-35-115(b)(4). The appellant meets the criteria established in State v. Wilkerson, 905 S.W.2d 933, 938 (Tenn. 1995). The public clearly needs to be protected from the

appellant.

JOE B. JONES, PRESIDING JUDGE

CONCUR:

PAUL G. SUMMERS, JUDGE

JOSEPH M. TIPTON, JUDGE